

CITY OF OMAHA CHAPTER 41 - AIR QUALITY CONTROL

ARTICLE I. IN GENERAL

SECTION 41-10. CIVIL ENFORCEMENT

The control officer and Law Department shall be responsible for civil enforcement of the provisions of this chapter consistent with the minimum requirements of Federal and state law and regulations providing for enforcement of the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq., the City's civil enforcement authority through the Control Officer for violations of this chapter shall include, but not be limited to, the following:

- (1) The power to restrain or enjoin immediately and effectively any person by order or by suit in any court of competent jurisdiction from engaging in any activity in violation of any permit that is presenting an eminent and substantial endangerment to the public health or welfare, or the environment.
- (2) To seek injunctive relief in any court of competent jurisdiction to enjoin any violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit.
- (3) To recover in any court of competent jurisdiction civil penalties according to the following: (i) For any violation of any applicable requirement, any permit condition, any fee or filing requiring, any duty to allow or carry out inspection, entry or monitoring activities, or any regulation or orders issued under the provisions of this chapter. Such penalties shall, as required by state and Federal law and regulations, be a maximum of \$10,000 per day per violation. Proof of, or legal conclusions of, the mental state of any person involved in any such activity shall not be an element of proof for such violation.
- (4) The burden of proof and the degree of knowledge or intent required for a judicial finding of any violation of any provision of this chapter shall be no greater than the burden of proof or degree of knowledge or intent required by the provisions of the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq.
- (5) All civil penalties assessed shall be appropriate to the violation as required by the Clean Air Act and shall be paid to the schools as provided by the State Constitution.

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- (6) Subsections (3), (4) and (5) hereof shall not apply to violations which are not specifically regulated by Title 129 or the Clean Air Act Amendments of 1990.

Nothing set out herein shall be construed to limit the City of Omaha to any civil or criminal enforcement, power, penalty or procedure which is less than that required by applicable state and Federal laws, rules and regulations as required for the enforcement of Federal, state and local air pollution control programs.

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